

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.4397 of 2007 (O&M)

Swaran Kaur Tuli and another ...Appellants

Versus

Prashant Tuli and others ...Respondents

FAO No.4398 of 2007 (O&M)

Meena Tuli ...Appellant

Versus

Prashant Tuli and others ...Respondents

AND

FAO No.4399 of 2007 (O&M)

Munish Tuli ...Appellant

Versus

Prashant Tuli and others ...Respondents

Date of Decision: September 29, 2017

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Parminder Singh, Advocate
for the appellants.

Mr.Suvir Dewan, Advocate
for respondent – Insurance Company.

HARINDER SINGH SIDHU, J.

This judgment shall dispose of three appeals i.e. FAO Nos.4397,
4398 and 4399 of 2007, as all these appeals have arisen out of the same
award dated 27.9.2006 passed by Motor Accident Claims Tribunal, Karnal

(for short 'the Tribunal').

In brief, the facts are that on 19.7.2003 at about 5.30 am, Ashok Kumar Tuli (since deceased) along with his family members was going from Karnal to Amritsar in car bearing No.HR05H-0694, being driven by his son Prashant Kumar. When the car reached in front of Cheema's Dera on the Ambala-Rajpura road, all of sudden, scooter bearing No.HR01F-5634 came in front of the car, as a result of which in an endeavour to control the car, it turned turtle. All the occupants of the car, including Ashok Kumar Tuli, his son Munish Tuli and daughter-in-law Meena Tuli suffered grievous injuries. However, Ashok Kumar Tuli succumbed to the injuries while being shifted to Delhi.

Three separate claim petitions were filed before the Tribunal. Claim Petition No.66 of 2004 claiming compensation on account of the death of Ashok Kumar Tuli was filed by his mother Swaran Kaur Tuli and his two sons Munish Tuli and Prashant Tuli. Smt. Manju Tuli widow of the deceased Ashok Kumar Tuli and Ms. Malvika minor daughter of the deceased were impleaded as respondents to this claim petition.

The other two claim petitions MACT Case No.218 of 2003 and MACT Case No.219 of 2013 were filed by Manish Tuli and Meena Tuli respectively, claiming compensation for injuries sustained by them.

The Tribunal held that the accident had been caused due to the rash and negligent driving of the car by Prashant Tuli.. It awarded compensation as under:-

In case of death of Ashok Kumar Tuli- Claim Petition No.66 of 2004 (FAO-4397)	Rs.7,75,300/-
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In case of injuries to Meena Tuli - MACT Case No.219 of 2003 (FAO-4398)	Rs.31,800/-
In case of death of Munish Tuli- MACT Case No.218 of 2003 (FAO-4399)	Rs.1,00,000/-

The compensation in Claim Petition No.66 of 2004 was to be shared equally amongst Swaran Kaur, Manish Tuli, Manju Tuli and Malvika (the mother, son, widow and minor daughter of the deceased). The claim petition on behalf of Prashant Tuli, the other son of the deceased was held to be not maintainable as he was the driver of the car and was responsible for the accident.

Feeling dissatisfied with the quantum of compensation, the claimants have approached this Court.

In case of death of Ashok Kumar Tuli, it is argued that though the admitted gross salary of the deceased was Rs.14133/-, but the Tribunal assessed his income at Rs.11958/-, which was his carry home salary. It is also argued that since there were four dependants of the deceased, the deduction towards his personal expenses was required to be 1/4th only and not 1/3rd as done by the Tribunal. It is further argued that the deceased was aged about 56 years, (his date of birth as per the PAN card was 22.11.1947) therefore, the correct multiplier to be applied was '9' and not '8' as applied by the Tribunal.

Claimant – injured Meena Tuli had received spinal injury and had to remain away from work w.e.f. 21.7.2003 to 22.9.2003, for which she was not paid and loss of salary was Rs.21,846/-. She also proved on record the prescription slips and medical bills Ex.P48 to Ex.P78 issued by Mata Gujri

Hospital, New Delhi, Indian Spinal Injuries Centre and Safdarjung Hospital, Delhi. It is argued that the compensation awarded is a meagre amount of Rs.31,800/- considering her injuries as also the pain and agony suffered by her.

Claimant – injured Munish Tuli had sustained multiple and grievous injuries, including fracture and got treatment from Sir Ganga Ram Hospital, New Delhi. Alic Masih, Senior Medical Record Technician of the said hospital appeared in the witness box as PW2 and proved that the injured was admitted in the hospital on 28.7.2003 and discharged on 6.8.2003. He further testified that Munish Tuli was operated twice.

I have heard Ld. Counsel for the parties and perused the records of the Tribunal with their assistance.

The factum of accident, involvement of the vehicle, loss of income and dependency are not in dispute.

However, there is merit in the submissions made on behalf of the appellants.

Having considered the submissions and perused the paper-book as also in view of the decisions of the Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr**, 2009(6) SCC 121, **Rajesh and others vs. Rajbir Singh and others**, 2013 ACJ 1403, **United India insurance Co.Ltd. Vs. Patricia Jean Mahajan** AIR 2002 (SC) 2607, **Raj Kumar v. Ajay Kumar & Anr.**, (2011)1 SCC 343, **Subulaxmi vs. M.D.,Tamil Nadu State Transport Corporation and another**, 2012(10) SCC 177 and **Manickam vs. Metropolitan Transport Corp. Ltd.**, 2013 AIR (SC) 2629. etc., this Court re-assesses the

compensation as under :-

In Case of death of Ashok Kumar Tuli (FAO-4397-2007) :

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation (in rupees)</i>
<i>(i)</i>	<i>Income (gross salary)</i>	<i>14133/-</i>
<i>(ii)</i>	<i>15% of above (i) to be added as future prospects (deceased aged 56 years)</i>	<i>14133+2119.95 = 16292.95 (rounded off at 16293/-)</i>
<i>(iii)</i>	<i>¼ of (ii) deducted as personal expenses of the deceased (4 dependants)</i>	<i>16293-4073.25 = 12219.75 per month</i>
<i>(iv)</i>	<i>Loss of dependency after multiplier of 9 is applied</i>	<i>12219.75x12x9 = 13,19,733/-</i>
<i>(v)</i>	<i>Loss of Love and affection (Rs.50,000/- each for mother Swaran Kaur and minor child Malvika)</i>	<i>1,00,000/-</i>
<i>(vi)</i>	<i>Loss of Consortium (exclusively for Manju Tuli - widow of deceased)</i>	<i>1,00,000/-</i>
<i>(vii)</i>	<i>Funeral Expenses</i>	<i>25,000/-</i>
	<i>Total</i>	<i>Rs.15,44,733/-</i>

The amount awarded under heads at Sr.No.(v) and (vi) 'loss of love and affection' and 'loss of consortium' shall be payable to the claimants, as indicated therein. The remaining enhanced amount shall be payable to the family of the deceased, in the same proportion, as awarded by the Tribunal.

In Case of injuries to Meenu Tuli (FAO-4398-2007) :

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation (in rupees)</i>
<i>(i)</i>	<i>Medical Expenses</i>	<i>3,000/-</i>
<i>(ii)</i>	<i>Transportation charges</i>	<i>10,000/-</i>

(iii)	Special diet	10,000/-
(iv)	Pain and sufferings	30,000/-
(v)	Attendant charges	10,000/-
(vi)	Loss of income	21,846/-
	Total	84,846/-

In Case of injuries to Munish Tuli (FAO-4399-2007) :

Sr.No.	Heads	Calculation (in rupees)
(i)	Medical Treatment	88,000/-
(ii)	Transportation	10,000/-
(iii)	Special diet	10,000/-
(iv)	Pain and sufferings	50,000/-
(v)	Attendant charges	10,000/-
	Total	1,68,000/-

Accordingly, the appeals are allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation, as calculated above. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim petitions till realisation.

September 29, 2017

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No